



ALABAMA DEPARTMENT OF  
**MENTAL HEALTH**

# Medicaid Home and Community-Based (HCBS) Settings Rule HCBS Modifications

A Training for ID Waiver Support Coordinators  
and Residential Habilitation Providers

April 2021

# Learning Objectives

- Understanding what “modifications” means in the context of the Medicaid Home and Community-Based Services ) Settings Rule
- Understanding the specific HCBS Settings Rule standards that can be modified
- Understanding the circumstances under which a HCBS Settings Rule standard may be modified
- Understanding how a modification may be implemented, including the roles of the Support Coordinator and ID Waiver provider
- Understanding how to document an HCBS modification as part of the Person-Centered Plan


# What is the HCBS Settings Rule?

- A federal regulation that defines **standards** for settings where Medicaid HCBS services are provided using federal funding.
- The Rule is the result of a nearly **5 year rule-making process** during which over 2,000 public comments were submitted during multiple public comment periods.
- The final Rule was issued in March 2014. States have been given until **March 2023** (9 years) to bring all existing HCBS settings into compliance with all of the standards in the Rule.


# The HCBS Settings Rule Goals:

Access	<i>Maximize opportunities for participants to have <u>full access to the benefits of community living</u></i>
Integration	<i>Ensure participants can receive services in the <u>most integrated setting</u></i>
Quality	<i>Ensure the <u>quality</u> of Home and Community-Based Services</i>
Rights	<i>Provide <u>rights protections</u> for participants</i>
<i>For More Information</i>	<i><a href="https://mh.alabama.gov/home-and-community-based-services/">https://mh.alabama.gov/home-and-community-based-services/</a></i>

# What is an “HCBS Modification”?



A plan for a specific individual to modify expectations associated with an HCBS setting standard



Must be for an assessed and verifiable health or safety need

# HCBS Setting Standards That Can Be Modified

***Important:***

***Not all HCBS setting standards can be modified***

Modifications Are  
Used *Only* in  
Residential  
Habilitation  
Settings

And Are  
Permitted *Only*  
For These HCBS  
Setting Standards

Freedom and support to control their schedules and activities.

Freedom and support to ensure access to food at any time.

Ability to have visitors at any time, taking into account respect for others sharing the unit.

A choice in determining with whom to share the living unit (and bedroom, if sharing with unrelated individuals)

Ability to furnish and decorate their living unit and/or bedroom as desired, consistent with the terms of the lease or residency agreement.

Lockable entrance door(s) to living unit (and bedroom doors if sharing with other unrelated persons) *With only the individual and appropriate staff shall have keys/codes for door(s).*

IMPORTANT: A modification to the expectation that the setting will be physically accessible to the person may NOT be implemented.

# What is an “HCBS Modification”?

A plan for a specific individual to modify expectations associated with a certain HCBS setting standard

- Plan for an individual – not for an entire household or everyone an agency serves
- Must be for an assessed and verifiable health and/or safety need
- Must be justified by documenting the positive and less restrictive interventions that have been tried previously that did not work:
  - Were not effective to address the health and/or safety need
  - Tried in recent past, not distant past

No “House Rules” or setting policies that are automatically applied to everyone, limiting one or more rights under HCBS Settings Rule



# What is an “HCBS Modification”? (2)

A plan for a specific individual to modify expectations associated with a certain HCBS setting standard

- The modification to be implemented must be clearly described with assurance it will cause no harm to the person
- The plan to modify the HCBS setting standard must be proportionate to assessed need
- No more restrictive and limiting than is necessary to safeguard health and safety

If I cannot have fruit juice within two hours of taking my medication, there should not be a modification plan that says I can never have fruit juice or my provider will decide all types of drinks I may have and when.

# What is an “HCBS Modification”? (3)

A plan for a specific individual to modify expectations associated with a certain HCBS Setting standard

- The modification must be reduced and eliminated as soon as feasible
- The plan must include methods for collecting and reviewing data on the effectiveness of the modification
- The plan must include a defined schedule for regular review of the effectiveness of the modification

Modifications are not “Standing Orders”

# What is an “HCBS Modification”? (4)

A plan for a specific individual to modify expectations associated with a certain HCBS Setting standard

- The person (and/or legal guardian, if applicable) must give informed consent for the modification
  - Must ensure understanding of what is being consented to
  - Why the modification is being proposed
  - How the modification will be implemented
  - When and how often the modification will be reviewed
  - How person/legal guardian can change/end the modification

A Modification  
**Must Be for a  
Health and/or  
Safety Reason** -  
Not for  
Provider or Staff  
Convenience  
or Resource  
Constraints

Freedom and support to control their schedules and activities.

Freedom and support to ensure access to food at any time.

Ability to have visitors at any time, taking into account respect for others sharing the unit.

A choice in determining with whom to share the living unit (and bedroom, if sharing with unrelated individuals)

Ability to furnish and decorate their living unit and/or bedroom as desired, consistent with the terms of the lease or residency agreement.

Lockable entrance door(s) to living unit (and bedroom doors if sharing with other unrelated persons) *With only the individual and appropriate staff shall have keys/codes for door(s).*

IMPORTANT: A modification to the expectation that the setting will be physically accessible to the person may NOT be implemented.

# A Modification to an HCBS Setting Standard for an ID Waiver Participant Must be Documented in the Person-Centered Plan

*Only applicable to ID Waiver  
participants receiving Residential  
Habilitation Services*

**HCBS Modifications Include Any of the Following *in a Residential Habilitation Setting*:**

- Restriction on access to food at any time
- Restriction on having visitors at any time
- Restriction on freedom to control and choose daily schedule and activities
- Restrictions on having key or other way to independently open locked doors in residential setting at any time
- Restriction on choice of housemate if sharing living unit and/or roommate if sharing bedroom in residential setting
- Restriction on choice to share bedroom (and with whom) in residential setting
- Restriction on freedom to furnish and decorate living unit and bedroom in residential setting

**Process Step #1**

Confirm the ID Waiver Participant is Receiving Residential Habilitation Services

What is the Specific Modification that is Needed?

Why is the Specific Modification Needed?

What Else Has Been Tried But Has Not Worked?

What is the health and/or safety reason(s) for the Modification?

How do we know these health and/or safety needs exist for the person?

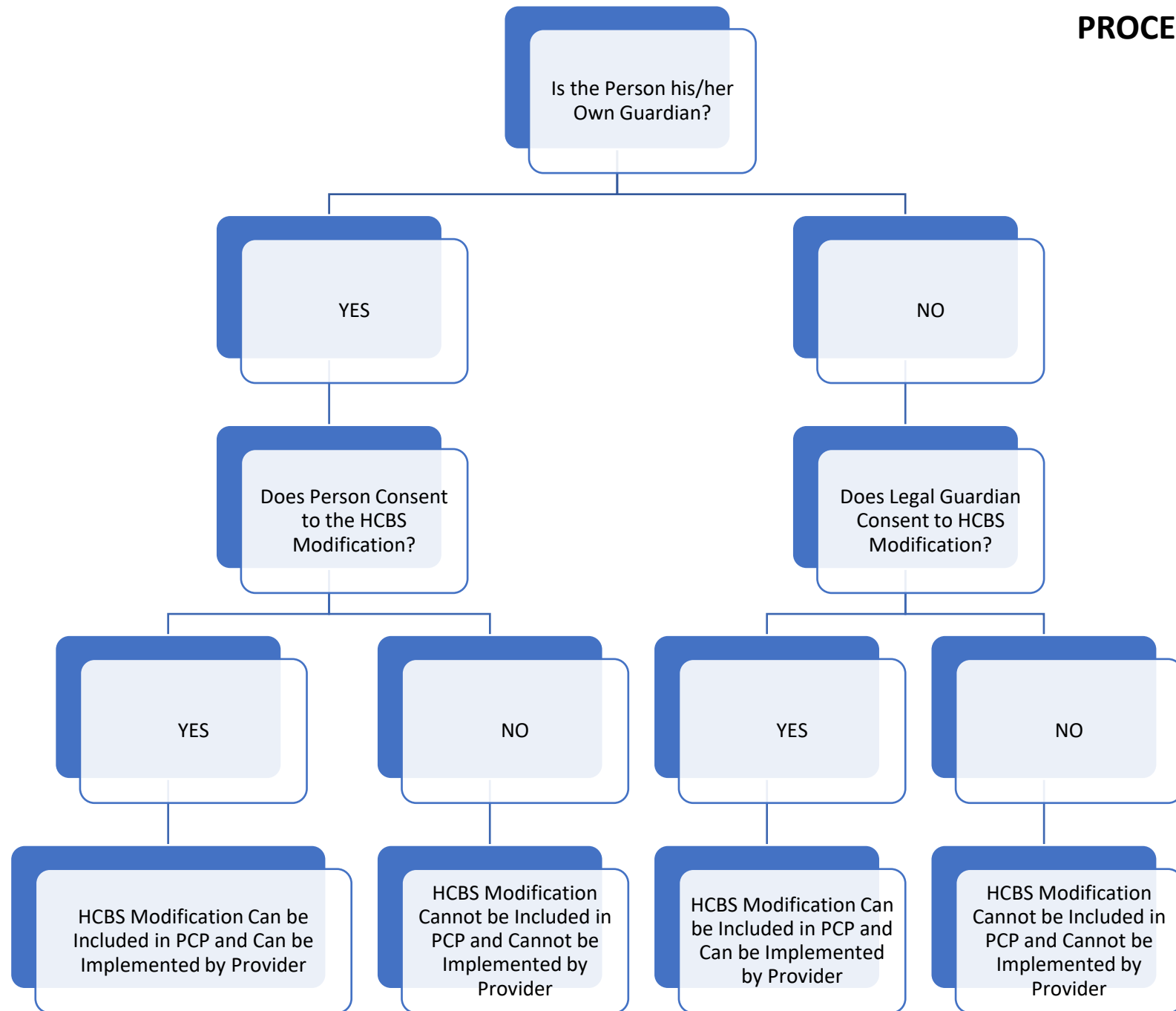
What are the positive and less restrictive interventions that have already been tried but were unsuccessful?

If none, the Modification cannot be implemented.

## PROCESS STEP #2

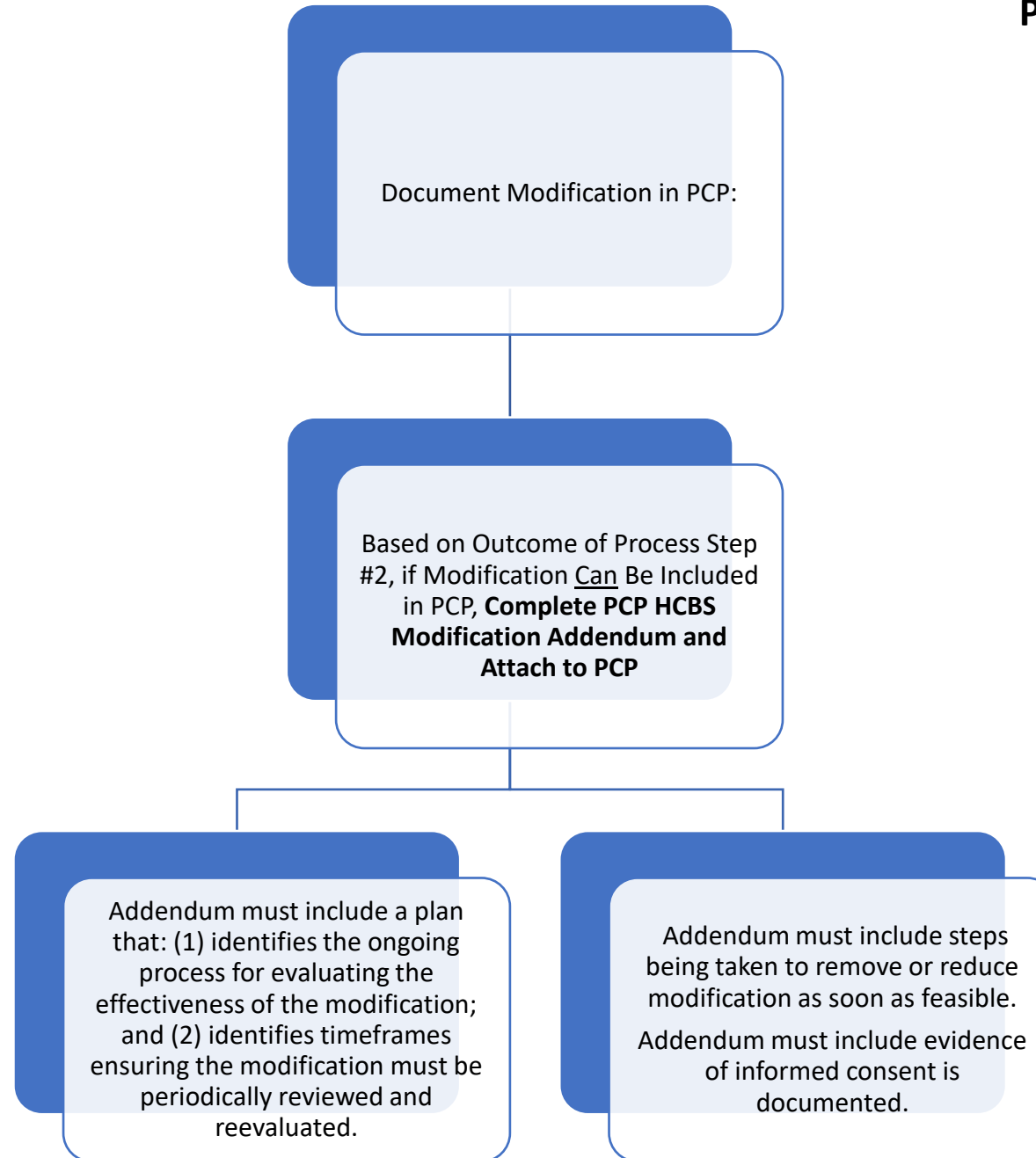
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- Restriction on choice to share bedroom (and with whom) in residential setting
- Restriction on freedom to furnish and decorate living unit and bedroom in residential setting




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- Restriction on choice to share bedroom (and with whom) in residential setting
- Restriction on freedom to furnish and decorate living unit and bedroom in residential setting





# Where to Document HCBS Rights Modification in the Person-Centered Plan

Community Living				
<b>Back-up &amp; Contingency Planning:</b>				
				
	<input checked="" type="checkbox"/> Modification to Right to Control Daily Schedule and Activities; HCBS Rights Modification Attachment Completed and Attached to this PCP			
	<input type="checkbox"/> Modification to Right to Access to Food at Any Time; HCBS Rights Modification Attachment Completed and Attached to this PCP			
	<input type="checkbox"/> Modification to Right to have Visitors at Any Time; HCBS Rights Modification Attachment Completed and Attached to this PCP			
	<input type="checkbox"/> Modification to Requirement for Individual to have Key or Other Method to Lock/Unlock Entrance Door (and Bedroom Door if Living Unit Shared); HCBS Rights Modification Attachment Completed and Attached to this PCP			
	<input type="checkbox"/> Modification to Requirement for Individual to have Choice of Housemate/Roommate if Sharing a Living Unit or a Bedroom; HCBS Rights Modification Attachment Completed and Attached to this PCP			
<input type="checkbox"/> Modification to Right to Furnish and Decorate their Living Unit and Bedroom as Desired; HCBS Rights Modification Attachment Completed and Attached to this PCP				

# The HCBS Rights Modification Support Plan Addendum

When opening this Addendum on your computer, if you see “Enable Content” at the top, click on that as your first step.

## Part A. Basic Information [Completed by Support Coordinator]

### Person

Last Name:

First Name:

ADIDIS #:

Effective Date of Modification(s):

### Support Coordinator

Agency Name:

Last Name:

First Name:

# The HCBS Rights Modification Support Plan Addendum (2)

## Part B. HCBS Modification [Completed by Support Coordinator]

Then forwarded via secure email to Provider operating the setting where the HCBS Modification will be implemented.

The Support Coordinator documents required modifications of the person's HCBS right(s) here. *(The modification must be based on an assessed need, and necessary to ensure the health and/or safety of the person.)*

**1. Identify each HCBS right that requires a modification based on assessed needs. (Check all that apply):**

- ☐ A. Right to freedom and support to control individual schedule and activities
- ☐ B. Right to have access to food and drink at any time.
- ☐ C. Right to choose visitors and times when visits occur, taking into account respect for others sharing unit
- ☐ D. Right to choose housemate(s) if sharing a living unit and roommate if sharing a bedroom
- ☐ E. Right to furnish and decorate living unit and bedroom as desired, consistent with terms of lease or residency agreement
- ☐ F. Right to lockable entrance door(s) to the person's living unit (and bedroom if the person shares a living unit with unrelated individuals), with only the individual and appropriate staff having keys/codes to door(s).

# The HCBS Rights Modification Support Plan Addendum (3)

## Part B. HCBS Modification [Completed by Support Coordinator]

Then forwarded via secure email to Provider operating the setting where the HCBS Modification will be implemented.

2. Identify why the person needs the modification(s) to the specified HCBS right(s)—Detail how the assessed need for each modification has been identified. *(The modification must be based on the person's health and/or safety need(s) identified in a current assessment. This may be an initial assessment or reassessment by the Support Coordinator, an assessment by an HCBS Provider or a Specialist Provider involved with the person.)*

<b>Modification</b> <i>(Fill in row below if letter checked in Question 1 above.)</i>	<b>Assessed Need</b>
<b>Example:</b> B. Right to have access to food at any time	<ul style="list-style-type: none"><li>• What is the specific assessed health and/or safety need(s)</li><li>• Who completed the assessment that identified the need(s)</li><li>• When was the assessment completed that identified the need(s)</li><li>• Include diagnosis/condition, if applicable</li></ul> <i>Matt has Prader-Willi syndrome, a condition that causes him to ingest large quantities of food. Matt's physician, Dr. Smith confirmed his diagnosis in his annual physical exam on 6/20/2020.</i>
A. Right to freedom and support to control individual schedule and activities	Enter Value
B. Right to have access to food and drink at any time	Enter Value
C. Right to choose visitors and times when visits occur, taking into account respect for others sharing unit	Enter Value
D. Right to choose housemate(s) if sharing a living unit and roommate if sharing a bedroom	Enter Value
E. Right to furnish and decorate living unit and bedroom as desired, consistent with terms of lease or residency agreement	Enter Value
F. Right to lockable entrance door(s) to living unit (and bedroom if person shares unit with unrelated individuals); with only the individual and appropriate staff have key(s)/code(s) to door(s)	Enter Value

# The HCBS Rights Modification Support Plan Addendum (4)

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## Part B. HCBS Modification [Completed by Support Coordinator]

Then forwarded via secure email to Provider operating the setting where the HCBS Modification will be implemented.

Setting and HCBS Waiver Provider*	
Describe Setting where modification(s) will be used:	Provider Name (Organization, if applicable):
Enter Value	Enter Value
Provider contact to receive this form ( <i>First &amp; Last Name</i> ):	Primary contact email:
Enter Value	Enter Value

# The HCBS Rights Modification Support Plan Addendum (5)

## Part C. HCBS Provider Responsibility [Completed by the Waiver Service Provider]

Then this Addendum is returned to the Support Coordinator via **secure email**.

The Service Provider must complete this section. The person (and legal guardian if applicable) and Support Coordinator will review the modification plan proposed by the Service Provider and consider its approval. The provider plan must:

- Ensure the HCBS modification is implemented in the least restrictive manner necessary to protect the person, as described in this Plan.
- Provide support to reduce or eliminate the need for the modification as soon as feasible.
- Provide updates on the implementation and effectiveness of this Plan to the person and Support Coordinator when requested.

### Setting and HCBS Waiver Provider

SETTING ADDRESS WHERE MODIFICATION WILL BE USED:

Enter Value

PROVIDER NAME (ORGANIZATION IF APPLICABLE):

Enter Value

PRIMARY CONTACT FIRST NAME:

Enter Value

PRIMARY CONTACT LAST NAME:

Enter Value

# The HCBS Rights Modification Support Plan Addendum (6)

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## **Part C. HCBS Provider Responsibility** [Completed by the Waiver Service Provider]

Then this Addendum is returned to the Support Coordinator via **secure email**.

Service Provider should select (click on) the HCBS Right(s) listed below that are selected in Part B.1. above as needing modification. Complete the five required questions to create the plan for implementation of the HCBS Modification.



# The HCBS Rights Modification Support Plan Addendum (7)

## Part C. HCBS Provider Responsibility [Completed by the Waiver Service Provider]

Then this Addendum is returned to the Support Coordinator via secure email.

### B. Right to have access to food and drink at any time ☒

#### Modification Plan Information: Right to have access to food and drink at any time

1. For the assessed need(s) described in Part B, describe the positive interventions and supports used previously that were not effective and therefore justify the use of the modifications. Document less restrictive method of meeting the person's needs that have been tried but did not work.

Enter Value

2. Identify how the right will be modified in the least restrictive manner

Enter Value

3. Identify the objective measures that establish the criteria for ending the modification (meaning how and when everyone will know the person's rights must be restored).

Enter Value

4. Describe how the effectiveness of the modification will be evaluated over time.

*(For example, documentation to review may include incident reports, progress reports, and other supplemental provider documentation that shows evidence of the person's need to maintain, lessen, or eliminate the modification.)*

Enter Value

5. Identify the frequency and schedule for regular review of the effectiveness of the modification and need for continued use of the modification.

*(Base the frequency and schedule on the criteria for ending the restriction (Question #3). Review must occur at least annually; but in most cases, ensuring the modification is not left in place longer than absolutely necessary will justify regular review occurring more frequently (e.g. semi-annually; quarterly, or monthly)).*

Enter Value



# The HCBS Rights Modification Support Plan Addendum (8)

## Part D. Person's Informed Consent

Your signature (or mark) shows that you participated in and understand the Modification(s) of your HCBS Right(s) that your Support Coordinator and Provider documented in this form. You decide whether to agree to or not agree to each Modification to your HCBS Rights. If you agree, you can change your mind at any time. You also can ask your Support Coordinator for a review discussion on a Modification at any time.

The reason for a Modification of my HCBS Rights has been explained to me in a way that I understand. I also understand how my Provider will provide the Modification to ensure my health, safety, and well-being.

Your options:

☐ I approve of the Modification(s) of my Rights identified in this Plan, which is part of my PCP.

or

☐ I refuse for my Rights to be modified.

Person	Date
Legal Guardian (Legally Appointed Decision-Maker)	Date



## FINAL STEPS

1. Support Coordinator will Scan and Signed Addendum to Create Electronic Version
2. Support Coordinator will create a NOTE in ADIDIS stating it contains the HCBS Rights Modification Support Plan Addendum
3. Support Coordinator will attach the Addendum to the NOTE
4. Support Coordinator will ensure Provider receives copy of the Signed Addendum via Secure Mail

# To Upload HCBS Modification Addendum In ADIDIS

- Step 1: Find client
- Step 2: Find TAB called notes

Doe, Jane (440317)

Demographics Open To ADIDIS Enrollments Programs MR Wait List Auths **Notes** Plan Of Care Contacts Claims Submitted Assessments Fund Eligibility Diagnosis Medications Progress Notes

Filters

Key Word  Contains AND Note Date

Search Reset

5 Notes record(s) returned - now viewing 1 through 5

Note Date	Note By	Note Type	Description	Status of Note	Date Completed	Attachment
04/16/2021	Keith, Rebecca	Attachment	HCBS Modification Addendum	Pending		Yes
03/22/2021	Keith, Rebecca	Explanation	Explanation of changes	Complete	04/16/2021	Yes
03/09/2021	Keith, Rebecca	Attachment	Criticality Assessment update	Pending		Yes
02/04/2021	Keith, Rebecca	Attachment	Testing POC	Pending		Yes
01/01/2021	Keith, Rebecca	Attachment	HCBS Modification Addendum	Pending		Yes

<< First < Previous Retrieve 15 Records at a time Next > Last >>

# To Upload HCBS Modification Addendum In ADIDIS

- Step 3: For Note Type, Choose "Attachment"
- Step 4: For Description, Type In "HCBS Modification Addendum"
- Step 5: Add HCBS Modification Addendum as Attachment
  - If Addendum has been successfully added, it will show up under Document

Note Detail:

Notes

Notes Details

Note By \*

Note Date \*

Fund Code

Note Type \*

Description

Note

Status of Note \*

Date Completed

Attachments

Add Attachment

Document

Revised POC 4.2.21.pdf

Note Recipients

Add Note Recipient:

# To Retrieve HCBS Modification Addendum In ADIDIS

- Find client
- Find TAB called notes
- Use Filters
- Search by Key Word: "Modification"

Doe, Jane (440317)

Demographics Open To ADIDIS Enrollments Programs MR Wait List Auths **Notes** Plan Of Care Contacts Claims Submitted Assessments Fund Eligibility Diagnosis Medications Progress Notes

Filters

Key Word  Contains AND  Note Date

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04/16/2021	Keith, Rebecca	Attachment	HCBS Modification Addendum	Pending		Yes
03/22/2021	Keith, Rebecca	Explanation	Explanation of changes	Complete	04/16/2021	Yes
03/09/2021	Keith, Rebecca	Attachment	Criticality Assessment update	Pending		Yes
02/04/2021	Keith, Rebecca	Attachment	Testing POC	Pending		Yes
01/01/2021	Keith, Rebecca	Attachment	HCBS Modification Addendum	Pending		Yes

<< First < Previous Retrieve 15 Records at a time Next > Last >>

# Quick Summary of Responsibilities of Support Coordinator

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## Support Coordinator Responsibilities:

1. When a specific need for a modification to one of the above rights is identified for a person and supported by an assessed need related to health and/or safety, the **Support Coordinator completes Part A and Part B.**
2. The Support Coordinator then **forwards this electronic form to the HCBS Provider** (to complete Part C) via secure email. The Support Coordinator also **provides a due date** for the HCBS Provider.
3. When the provider returns the form, the Support Coordinator **confirms the provider fully completed Part C.**
4. The Support Coordinator then **reviews this Plan with the person** (and legal guardian if applicable) **and completes Part D.** This part indicates if the person (and/or legal guardian, if applicable) consents to the modification being implemented by the provider.  
***Signature(s) are required.***
5. If consent is given by the person (or legal guardian, if applicable), the Support Coordinator then ensures:
  - a. The existence of the HCBS Rights Modification Support Plan **Addendum is documented in the Person-Centered Plan (PCP),** making it part of the PCP.
  - b. The Support Coordinator **uploads this signed document to ADIDIS** and maintains it as an attachment to the PCP.
  - c. The Support Coordinator ensures that **the provider implementing this HCBS Modification Support Plan receive a copy of this Plan with the PCP.**

# Quick Summary of Responsibilities of HCBS Provider

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## HCBS Provider Responsibilities

1. The provider will **receive the form from the Support Coordinator** with Part A and B complete.
2. The **provider completes Part C and returns the form to the Support Coordinator** using secure email.
3. If the Support Coordinator obtains consent for the provider to implement the modification, the **provider will receive this completed Support Plan with the signed PCP.**
4. The provider **implements the modification according to this Plan.**

# Quick Summary of Responsibilities of BOTH the Support Coordinator and HCBS Provider

## Support Coordinator \*AND\* HCBS Provider Responsibilities

1. Ensure **reviews** of the modification are done according to the Plan in Part C of the HCBS Modification Addendum.
2. Review and discuss **#3: is it possible to reduce or end** the modification?
3. Review and discuss **#4: is the modification effective or should it be changed?**
4. Review and discuss **#5: When should we next review the modification?**

### B. Right to have access to food and drink at any time ☒

#### Modification Plan Information: Right to have access to food and drink at any time

1. For the assessed need(s) described in Part B, describe the positive interventions and supports used previously that were not effective and therefore justify the use of the modifications. Document less restrictive method of meeting the person's needs that have been tried but did not work.

Enter Value

2. Identify how the right will be modified in the least restrictive manner

Enter Value

3. Identify the objective measures that establish the criteria for ending the modification (meaning how and when everyone will know the person's rights must be restored).

Enter Value

4. Describe how the effectiveness of the modification will be evaluated over time.

*(For example, documentation to review may include incident reports, progress reports, and other supplemental provider documentation that shows evidence of the person's need to maintain, lessen, or eliminate the modification.)*

Enter Value

5. Identify the frequency and schedule for regular review of the effectiveness of the modification and need for continued use of the modification.

*(Base the frequency and schedule on the criteria for ending the restriction (Question #3). Review must occur at least annually; but in most cases, ensuring the modification is not left in place longer than absolutely necessary will justify regular review occurring more frequently (e.g. semi-annually; quarterly, or monthly)).*

Enter Value

**Support Coordinator must document reviews.**



# Timeline

All necessary HCBS modifications must be documented in ID Waiver Participants' Person-Centered Plans by no later than October 1, 2021 (10/1/21).

Any of these restrictions already in use may not be continued after 10/1/21 unless HCBS Modification is documented in person's PCP.

## HCBS Modifications Include Any of the Following *in a Residential Habilitation Setting*:

- Restriction on access to food at any time
- Restriction on having visitors at any time
- Restriction on freedom to control and choose daily schedule and activities
- Restrictions on having key or other way to independently open locked doors in residential setting at any time
- Restriction on choice of housemate if sharing living unit and/or roommate if sharing bedroom in residential setting
- Restriction on choice to share bedroom (and with whom) in residential setting
- Restriction on freedom to furnish and decorate living unit and bedroom in residential setting

## Consent is Required

A diagram illustrating the requirement for consent in HCBS modifications. A teal circle on the left contains the text 'Consent is Required'. A blue arrow points from this circle to a large blue shape on the right. Inside the blue shape, there are two paragraphs of text. A white arrow points from the second paragraph to a box on the far right. The background is white with some abstract purple and blue shapes.

If an individual is his/her own guardian, and the individual does not give informed consent for the modification, it cannot be implemented by the provider.

Without consent, if the health and/or safety need must be addressed using one of these restrictions you must use the Restrictive Measures process to get approval to implement.

### HCBS Modifications Include Any of the Following *in a Residential Habilitation Setting*:

- Restriction on access to food at any time
- Restriction on having visitors at any time
- Restriction on freedom to control and choose daily schedule and activities
- Restrictions on having key or other way to independently open locked doors in residential setting at any time
- Restriction on choice of housemate if sharing living unit and/or roommate if sharing bedroom in residential setting
- Restriction on choice to share bedroom (and with whom) in residential setting
- Restriction on freedom to furnish and decorate living unit and bedroom in residential setting



## Resources



This slide deck, the decision tree and the HCBS Modifications Addendum for the ID Waiver are posted on:

1. The Support Coordination Microsoft Teams Channel
2. The ADMH Website:  
<https://mh.alabama.gov/home-and-community-based-services/> (under Related Items)

*Recorded training for Support Coordination Agencies & Providers will be added by end of April.*



**QUESTIONS?  
COMMENTS?**